

REMARKS

In the Office Action, dated June 19, 2003, the Examiner states that Claims 1-20 and 22-25 are pending, and Claims 1-20 and 22-25 are rejected. By the present Amendment, Applicant amends the claims.

In the Office Action, Claim 1 is objected to. The Applicant has cancelled Claim 1, and this objection is now moot.

In the Office Action, Claims 9 and 22 are rejected under 35 U.S.C. §112, second paragraph as being indefinite. Previous Claim 9, which is now embodied as current Claim 33, now provides antecedent basis for the cushion positioned on the seat support structure. However, the Applicant contends that Claim 22 is not indefinite, and does not claim a person. Claim 22 includes language that the "bladder is adapted to underlie entirely that respective part of a user adjacent to the seat and backrest". It has long been accepted that "adapted to" language is not indefinite, and overcomes an objection to claiming people. Furthermore, the claim states a user, and not a person. Although it is true that people and users vary in shape and size, the claim is limited to the respective part of the user adjacent the seat and backrest, which is not indefinite.

In the Office Action, Claims 1-10, 13, 19 and 20 are rejected under 35 U.S.C. §102(b) or §103(a) as anticipated by or obvious over U.S. 3,330,598 (Whiteside). Claims 1-20 have been cancelled and the rejection is now moot. However, Claims 2-17, 19 and 20 have been newly added as Claims 26-43 now dependent on independent Claim 22.

In the Office Action, Claims 1-8, 14 and 17 are rejected under 35 U.S.C. §102(b) or §103(a) as anticipated by or obvious over U.S. 5,762,618 (Yamanaka et al.). This rejection is also moot.

In the Office Action, Claims 11, 12, 14-18 and 22-25 are rejected under 35 U.S.C. §103(a) as unpatentable over Whiteside in view of U.S. 5,868,461 (Brotherston). The Applicant respectfully disagrees with and traverses this rejection with respect to the remaining Claims 22-25 and new Claims 26-43.

It is submitted that the question under 35 U.S.C. §103(a) is whether the totality of the art would collectively suggest the claimed invention to one of ordinary skill in this art. *In re Simon*, 461 F. 2d 1387, 174 USPO 114 (CCPA 1972).

That elements, even distinguishing elements, are disclosed in the art is alone insufficient. It is common to find elements somewhere in the art. Moreover, most, if not all, elements perform their ordained and expected functions. The test is whether the invention as a whole, in light of all the teachings of the references in their entireties, would have been obvious to one of ordinary skill in the art at the time the invention was made. *Connell v. Sears, Roebuck & Co.*, 722 F. 2d 1542, 220 USPO 193 (Fed. Cir. 1983).

It is insufficient that the art disclosed components of Applicants' claimed invention, either separately or used in other combinations. A teaching, suggestion, or incentive must exist to make the combination made by the inventor. *Interconnect Planning Corp. v. Feil*, 774 F. 2d 1132, 1143, 227 USPO 543, 551 (Fed. Cir. 1988).

The Patent Office has not demonstrated that either of the cited references disclose any motivation or suggestion to combine the references, nor demonstrated any reasonable expectation of success. On the contrary, as the Applicant has previously argued, the purpose of Whiteside is to provide support and to positively put pressure on the occupant of the seat. This reference therefore teaches away from the features of the present invention, being the under inflation of the cushions and the suspension of the cushions from a frame. The aim of the present invention is to put as little pressure as possible on the occupant and to provide evenly distributed pressure on the occupant to thus result in effective prevention of pressure sores. To this end, it is important that, when the occupant sits in the chair, the air in the cushions is displaced and moulds to the shape of the occupant. This is achieved by under inflation of the cushions and suspension of the cushions from frames. In a seat such as that shown in Whiteside, because the cushions are resting on a hard base and are

4

highly inflated, they provide pressure and support for the occupant. The Applicant therefore considers that there cannot be any motivation to modify the Whiteside reference to suspend the cushions from a frame or to combine this reference with Brotherston which discloses a chair for a completely different purpose.

Furthermore, neither of the cited references disclose the feature of the under inflation of the cushions.

Since the Patent Office has failed to show a convincing reason, suggestion or motivation to combine the cited references to arrive at Applicant's claimed invention, *prima facie* obviousness has not been established by the Patent Office as required under 35 U.S.C. § 103(a).

In light of the foregoing response, all the outstanding objections and rejections have been overcome. Applicant respectfully submits that this application should now be in better condition for allowance and respectfully requests favorable consideration.

Respectfully submitted,

9/3/03
Date

Brian W. Hameder
Attorney for Applicant
Brian W. Hameder
c/o Ladas & Parry
224 South Michigan Avenue
Chicago, Illinois 60604
(312) 427-1300
Reg. No. 45613

RECEIVED
CENTRAL FAX CENTER
SEP 03 2003

OFFICIAL